

NOT FOR CITATION  
IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA

ROBERT L. HILL,	)	No. C 09-00428 JF (PR)
	)	
Petitioner,	)	ORDER TO SHOW CAUSE
	)	
vs.	)	
	)	
BEN CURRY, Warden,	)	
	)	
Respondent.	)	

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Petitioner, a state prisoner currently incarcerated at the Correctional Training Facility in Soledad, California, seeks a petition in pro se for a writ of habeas corpus pursuant to 28 U.S.C. § 2254, challenging the Governor of California's reversal of the Board of Parole Hearing's grant of parole in 2007. Petitioner has paid the filing fee. The Court orders Respondent to show cause why the petition should not be granted.

**STATEMENT**

In 1991, Petitioner was sentenced to a term of 15 years to life in state prison after pleading guilty to second degree murder in Los Angeles County Superior Court. After a parole suitability hearing on February 27, 2007, the Board of Parole Hearings ("Board")

1 found Petitioner suitable for parole. On July 5, 2007, the Governor reversed the Board's  
 2 decision and denied parole. (Pet. Ex. 1.) Petitioner sought habeas relief in the state  
 3 superior, appellate, and supreme courts, all of which were denied. Thereafter, Petitioner  
 4 filed the instant federal petition on January 29, 2009.

## 6 DISCUSSION

### 7 A. Standard of Review

8 This Court may entertain a petition for writ of habeas corpus "in behalf of a person  
 9 in custody pursuant to the judgment of a state court only on the ground that he is in  
 10 custody in violation of the Constitution or laws or treaties of the United States." 28  
 11 U.S.C. § 2254(a); Rose v. Hodges, 423 U.S. 19, 21 (1975).

12 A district court shall "award the writ or issue an order directing the respondent to  
 13 show cause why the writ should not be granted, unless it appears from the application that  
 14 the applicant or person detained is not entitled thereto." 28 U.S.C. § 2243.

### 15 B. Petitioner's Claims

16 As grounds for federal habeas relief, Petitioner alleges that the Governor's  
 17 decision is unconstitutional because there is no evidence to support the finding that  
 18 Petitioner posed "an unreasonable risk of danger to society." (Pet. Ex. 1.) Liberally  
 19 construed, Petitioner's claim is cognizable under § 2254. The Court orders Respondent to  
 20 show cause why the petition for a writ of habeas corpus should not be granted.

## 22 CONCLUSION

23 1. The Clerk shall serve by mail a copy of this order and the petition  
 24 and all attachments thereto upon the Respondent and the Respondent's attorney, the  
 25 Attorney General of the State of California. The Clerk shall also serve a copy of this  
 26 order on the Petitioner.

27 2. Respondent shall file with the Court and serve on Petitioner, **within ninety**  
 28 **(90) days** of the date this order is filed, an answer conforming in all respects to Rule 5 of

1 the Rules Governing Section 2254 Cases, showing cause why a writ of habeas corpus  
2 should not be granted. Respondent shall file with the answer and serve on Petitioner a  
3 copy of all portions of the state parole record that have been transcribed previously and  
4 that are relevant to a determination of the issues presented by the petition.

5 If Petitioner wishes to respond to the answer, he shall do so by filing a traverse  
6 with the Court and serving it on Respondent **within thirty (30) days** of his receipt of the  
7 answer.

8 3. Respondent may file a motion to dismiss on procedural grounds in lieu of  
9 an answer, as set forth in the Advisory Committee Notes to Rule 4 of the Rules  
10 Governing Section 2254 Cases. If Respondent files such a motion, Petitioner shall file  
11 with the Court and serve on Respondent an opposition or statement of non-opposition  
12 **within thirty (30) days** of receipt of the motion, and Respondent shall file with the court  
13 and serve on Petitioner a reply **within fifteen (15) days** of receipt of any opposition.

14 4. It is Petitioner's responsibility to prosecute this case. Petitioner is reminded  
15 that all communications with the Court must be served on respondent by mailing a true  
16 copy of the document to Respondent's counsel. Petitioner must keep the Court and all  
17 parties informed of any change of address by filing a separate paper captioned "Notice of  
18 Change of Address." He must comply with the Court's orders in a timely fashion.  
19 Failure to do so may result in the dismissal of this action for failure to prosecute pursuant  
20 to Federal Rule of Civil Procedure 41(b).

21 IT IS SO ORDERED.

22 DATED: 5/29/09  
23  
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25  
26  
27  
28

  
JEREMY FOGEL  
United States District Judge

UNITED STATES DISTRICT COURT  
FOR THE  
NORTHERN DISTRICT OF CALIFORNIA

ROBERT L. HILL,

Petitioner,

v.

BEN CURRY, Warden,

Respondent.

Case Number: CV09-00428 JF

**CERTIFICATE OF SERVICE**

I, the undersigned, hereby certify that I am an employee in the Office of the Clerk, U.S. District Court, Northern District of California.

That on 6/12/09, I SERVED a true and correct copy(ies) of the attached, by placing said copy(ies) in a postage paid envelope addressed to the person(s) hereinafter listed, by depositing said envelope in the U.S. Mail, or by placing said copy(ies) into an inter-office delivery receptacle located in the Clerk's office.

Robert L. Hill E-88325  
P.O. Box 689  
Z-Wing 209 Low  
Soledad, CA 93960-0689

Dated: 6/12/09

Richard W. Wieking, Clerk